

COMMITTEE REPORT

Mr. President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 422 because it conflicts with HEA 1167-2003 without properly recognizing the existence of HEA 1167-2003, has had Engrossed Senate Bill 422 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 422 be corrected as follows:

- 1 Replace the effective dates in SECTIONS 6 through 11 with
- 2 "[EFFECTIVE APRIL 2, 2003]".
- 3 Page 4, line 35, delete "IC 6-3-3-5" and insert "IC 6-3-3-5, AS
- 4 AMENDED BY P.L.1-2003, SECTION 33,".
- 5 Page 5, line 33, after "IC 6-2.1" insert "~~(repealed)~~".
- 6 Page 5, line 35, delete "IC 6-2.1," and insert "~~IC 6-2.1 (repealed)~~".
- 7 Page 5, line 37, delete "IC 6-3-3-5.1" and insert "IC 6-3-3-5.1, AS
- 8 AMENDED BY P.L.1-2003, SECTION 34,".
- 9 Page 6, line 21, after "IC 6-2.1" insert "~~(repealed)~~".
- 10 Page 6, line 25, delete "P.L.14-2000," and insert "P.L.1-2003,
- 11 SECTION 35,".
- 12 Page 6, line 26, delete "SECTION 17,".
- 13 Page 8, line 9, after "tax)" insert "~~(repealed)~~".
- 14 Page 9, line 39, delete "P.L.192-2002(ss)," and insert "P.L.1-2003,
- 15 SECTION 36,".
- 16 Page 9, line 40, delete "SECTION 80,".
- 17 Page 10, line 22, delete "IC 6-3" and insert "this article".
- 18 Page 11, line 9, delete "IC 6-3-3-2," and insert "IC 6-3-3-2
- 19 (repealed),"
- 20 Page 11, line 18, delete "IC 6-3-3-2," and insert "IC 6-3-3-2
- 21 (repealed),"
- 22 Page 11, line 27, delete "IC 6-3.1-18-8" and insert "IC 6-3.1-18-8,
- 23 AS AMENDED BY P.L.1-2003, SECTION 38,".
- 24 Page 11, line 31, delete "IC 6-2.1," and insert "~~IC 6-2.1 (repealed)~~".
- 25 Page 11, line 35, delete "IC 6-5.5-2-7" and insert "IC 6-5.5-2-7, AS

1 AMENDED BY P.L.1-2003, SECTION 47,".

2 Page 11, line 41, delete "IC 6-2.1." and insert "~~IC 6-2.1 (repealed)~~".

3 Page 17, between lines 39 and 40, begin a new paragraph and insert:

4 "SECTION 17. [EFFECTIVE JANUARY 1, 2003
5 (RETROACTIVE)] (a) **Notwithstanding IC 6-3-3-5, this SECTION**
6 **applies instead of IC 6-3-3-5.**

7 (b) **At the election of the taxpayer, there shall be allowed, as a**
8 **credit against the adjusted gross income tax imposed by IC 6-3-1**
9 **through IC 6-3-7 for the taxable year, an amount (subject to the**
10 **applicable limitations provided by this SECTION) equal to fifty**
11 **percent (50%) of the aggregate amount of charitable contributions**
12 **made by such taxpayer during such year to institutions of higher**
13 **education located within Indiana, to any corporation or foundation**
14 **organized and operated solely for the benefit of any such**
15 **institution of higher education, or to the associated colleges of**
16 **Indiana.**

17 (c) **In the case of a taxpayer other than a corporation, the**
18 **amount allowable as a credit under this SECTION for any taxable**
19 **year shall not exceed one hundred dollars (\$100) in the case of a**
20 **single return or two hundred dollars (\$200) in the case of a joint**
21 **return.**

22 (d) **In the case of a corporation, the amount allowable as a credit**
23 **under this SECTION for any taxable year shall not exceed:**

24 (1) **ten percent (10%) of such corporation's total adjusted**
25 **gross income tax under IC 6-3-1 through IC 6-3-7 for such**
26 **year (as determined without regard to any credits against that**
27 **tax); or**

28 (2) **one thousand dollars (\$1,000);**

29 **whichever is less.**

30 (e) **For purposes of this SECTION, the term "institution of**
31 **higher education" means any educational institution located within**
32 **Indiana:**

33 (1) **which normally maintains a regular faculty and**
34 **curriculum and normally has a regularly organized body of**
35 **students in attendance at the place where its educational**
36 **activities are carried on;**

37 (2) **which regularly offers education at a level above the**
38 **twelfth grade;**

39 (3) **which regularly awards either associate, bachelors,**
40 **masters, or doctoral degrees, or any combination thereof; and**

41 (4) **which is duly accredited by the North Central Association**

of Colleges and Schools, the Indiana state board of education,
or the American Association of Theological Schools.

(f) The credit allowed by this SECTION shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this SECTION) allowed by IC 6-3-1 through IC 6-3-7.

(g) This SECTION expires April 2, 2003.

SECTION 18. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC 6-3-3-5.1, this SECTION applies instead of IC 6-3-3-5.1.

(b) At the election of the taxpayer, a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year is permitted in an amount (subject to the applicable limitations provided by this SECTION) equal to fifty percent (50%) of the aggregate amount of contributions made by the taxpayer during the taxable year to the twenty-first century scholars program support fund established under IC 20-12-70.1-5.

(c) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this SECTION for any taxable year may not exceed:

(1) one hundred dollars (\$100) in the case of a single return;
or

(2) two hundred dollars (\$200) in the case of a joint return.

(d) In the case of a taxpayer that is a corporation, the amount allowable as a credit under this SECTION for any taxable year may not exceed the lesser of the following amounts:

(1) Ten percent (10%) of the corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for the taxable year (as determined without regard to any credits against that tax).

(2) One thousand dollars (\$1,000).

(e) The credit permitted under this SECTION may not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this SECTION) allowed by IC 6-3-1 through IC 6-3-7.

(f) This SECTION expires April 2, 2003.

SECTION 19. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC 6-3-3-10, this SECTION applies instead of IC 6-3-3-10.

1 (b) The following definitions apply throughout this SECTION:

2 (1) "Base period wages" means the following:

3 (A) In the case of a taxpayer other than a pass through
4 entity, wages paid or payable by a taxpayer to its
5 employees during the year that ends on the last day of the
6 month that immediately precedes the month in which an
7 enterprise zone is established, to the extent that the wages
8 would have been qualified wages if the enterprise zone had
9 been in effect for that year. If the taxpayer did not engage
10 in an active trade or business during that year in the area
11 that is later designated as an enterprise zone, then the base
12 period wages equal zero (0). If the taxpayer engaged in an
13 active trade or business during only part of that year in an
14 area that is later designated as an enterprise zone, then the
15 department shall determine the amount of base period
16 wages.

17 (B) In the case of a taxpayer that is a pass through entity,
18 base period wages equal zero (0).

19 (2) "Enterprise zone" means an enterprise zone created under
20 IC 4-4-6.1.

21 (3) "Enterprise zone adjusted gross income" means adjusted
22 gross income of a taxpayer that is derived from sources within
23 an enterprise zone. Sources of adjusted gross income shall be
24 determined with respect to an enterprise zone, to the extent
25 possible, in the same manner that sources of adjusted gross
26 income are determined with respect to the state of Indiana
27 under IC 6-3-2-2.

28 (4) "Enterprise zone gross income" means gross income of a
29 taxpayer that is derived from sources within an enterprise
30 zone.

31 (5) "Enterprise zone insurance premiums" means insurance
32 premiums derived from sources within an enterprise zone.

33 (6) "Monthly base period wages" means base period wages
34 divided by twelve (12).

35 (7) "Pass through entity" means a:

36 (A) corporation that is exempt from the adjusted gross
37 income tax under IC 6-3-2-2.8(2);

38 (B) partnership;

39 (C) trust;

40 (D) limited liability company; or

41 (E) limited liability partnership.

1 **(8) "Qualified employee" means an individual who is**
 2 **employed by a taxpayer and who:**

3 **(A) has his principal place of residence in the enterprise**
 4 **zone in which he is employed;**

5 **(B) performs services for the taxpayer, ninety percent**
 6 **(90%) of which are directly related to the conduct of the**
 7 **taxpayer's trade or business that is located in an enterprise**
 8 **zone;**

9 **(C) performs at least fifty percent (50%) of his services for**
 10 **the taxpayer during the taxable year in the enterprise**
 11 **zone; and**

12 **(D) in the case of an individual who is employed by a**
 13 **taxpayer that is a pass through entity, was first employed**
 14 **by the taxpayer after December 31, 1998.**

15 **(9) "Qualified increased employment expenditures" means**
 16 **the following:**

17 **(A) For a taxpayer's taxable year other than his taxable**
 18 **year in which the enterprise zone is established, the**
 19 **amount by which qualified wages paid or payable by the**
 20 **taxpayer during the taxable year to qualified employees**
 21 **exceeds the taxpayer's base period wages.**

22 **(B) For the taxpayer's taxable year in which the enterprise**
 23 **zone is established, the amount by which qualified wages**
 24 **paid or payable by the taxpayer during all of the full**
 25 **calendar months in the taxpayer's taxable year that**
 26 **succeed the date on which the enterprise zone was**
 27 **established exceed the taxpayer's monthly base period**
 28 **wages multiplied by that same number of full calendar**
 29 **months.**

30 **(10) "Qualified state tax liability" means a taxpayer's total**
 31 **income tax liability incurred under:**

32 **(A) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax)**
 33 **with respect to enterprise zone adjusted gross income;**

34 **(B) IC 27-1-18-2 (insurance premiums tax) with respect to**
 35 **enterprise zone insurance premiums; and**

36 **(C) IC 6-5.5 (the financial institutions tax);**

37 **as computed after the application of the credits that, under**
 38 **IC 6-3.1-1-2, are to be applied before the credit provided by**
 39 **this SECTION.**

40 **(11) "Qualified wages" means the wages paid or payable to**
 41 **qualified employees during a taxable year.**

1 (12 "Taxpayer" includes a pass through entity.

2 (c) A taxpayer is entitled to a credit against the taxpayer's
3 qualified state tax liability for a taxable year in the amount of the
4 lesser of:

5 (1) the product of ten percent (10%) multiplied by the
6 qualified increased employment expenditures of the taxpayer
7 for the taxable year; or

8 (2) one thousand five hundred dollars (\$1,500) multiplied by
9 the number of qualified employees employed by the taxpayer
10 during the taxable year.

11 (d) The amount of the credit provided by this SECTION that a
12 taxpayer uses during a particular taxable year may not exceed the
13 taxpayer's qualified state tax liability for the taxable year. If the
14 credit provided by this SECTION exceeds the amount of that tax
15 liability for the taxable year it is first claimed, then the excess may
16 be carried back to preceding taxable years or carried over to
17 succeeding taxable years and used as a credit against the
18 taxpayer's qualified state tax liability for those taxable years. Each
19 time that the credit is carried back to a preceding taxable year or
20 carried over to a succeeding taxable year, the amount of the
21 carryover is reduced by the amount used as a credit for that
22 taxable year. Except as provided in subsection (e), the credit
23 provided by this SECTION may be carried forward and applied in
24 the ten (10) taxable years that succeed the taxable year in which
25 the credit accrues. The credit provided by this SECTION may be
26 carried back and applied in the three (3) taxable years that precede
27 the taxable year in which the credit accrues.

28 (e) A credit earned by a taxpayer in a particular taxable year
29 shall be applied against the taxpayer's qualified state tax liability
30 for that taxable year before any credit carryover or carryback is
31 applied against that liability under subsection (d).

32 (f) Notwithstanding subsection (d), if a credit under this
33 SECTION results from wages paid in a particular enterprise zone,
34 and if that enterprise zone terminates in a taxable year that
35 succeeds the last taxable year in which a taxpayer is entitled to use
36 the credit carryover that results from those wages under
37 subsection (d), then the taxpayer may use the credit carryover for
38 any taxable year up to and including the taxable year in which the
39 enterprise zone terminates.

40 (g) A taxpayer is not entitled to a refund of any unused credit.

41 (h) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this SECTION.

(i) If a pass through entity is entitled to a credit under subsection (c) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

(j) This SECTION expires April 2, 2003.

SECTION 20. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC6-3-4-4.1, this SECTION applies instead of IC 6-3-4-4.1.

(b) This SECTION applies to taxable years beginning after December 31, 1993.

(c) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(d) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of IC 6-3-4-8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(e) Every corporation subject to the adjusted gross income tax liability imposed by IC 6-3 shall be required to report and pay an estimated tax equal to twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(f) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (d) or (g). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax ~~plus utility receipts tax~~ which equal or exceed:

- (1) twenty percent (20%) of the final tax liability for such taxable year; or
- (2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(g) The provisions of subsection (d) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2, shall

1 exceed one thousand dollars (\$1,000) for its taxable year.

2 (h) If the department determines that a corporation's:

3 (1) estimated quarterly adjusted gross income tax liability for
4 the current year; or

5 (2) average estimated quarterly adjusted gross income tax
6 liability for the preceding year;

7 exceeds, before January 1, 1998, twenty thousand dollars (\$20,000),
8 and, after December 31, 1997, ten thousand dollars (\$10,000), after
9 the credit allowed by IC 6-3-3-2, the corporation shall pay the
10 estimated adjusted gross income taxes due by electronic funds
11 transfer (as defined in IC 4-8.1-2-7) or by delivering in person or
12 overnight by courier a payment by cashier's check, certified check,
13 or money order to the department. The transfer or payment shall
14 be made on or before the date the tax is due.

15 (i) If a corporation's adjusted gross income tax payment is made
16 by electronic funds transfer, the corporation is not required to file
17 an estimated adjusted gross income tax return.

18 (j) This SECTION expires April 2, 2003.

19 SECTION 21. [EFFECTIVE JANUARY 1, 2003
20 (RETROACTIVE)] (a) Notwithstanding IC 6-3.1-18-8, this
21 SECTION applies instead of IC 6-3.1-18-8.

22 (b) The credit provided under IC 6-3.1-18-7 is in addition to a
23 tax credit to which a shareholder, partner, or member of a pass
24 through entity is otherwise entitled under IC 6-3, this article, or
25 IC 6-5.5. However, a pass through entity and a shareholder,
26 partner, or member of the pass through entity may not claim more
27 than one (1) credit for the same qualified expenditure.

28 (c) This SECTION expires April 2, 2003.

29 SECTION 22. [EFFECTIVE JANUARY 1, 2003
30 (RETROACTIVE)] (a) Notwithstanding IC 6-5.5-2-7, this
31 SECTION applies instead of IC 6-5.5-2-7.

32 (b) Notwithstanding any other provision of IC 6-5.5, there is no
33 tax imposed on the adjusted gross income or apportioned income
34 of the following:

35 (1) Insurance companies subject to the tax under IC 27-1-18-2
36 or IC 6-3.

37 (2) International banking facilities (as defined in Regulation
38 D of the Board of Governors of the Federal Reserve System).

39 (3) Any corporation that is exempt from income tax under
40 Section 1363 of the Internal Revenue Code.

41 (4) Any corporation exempt from federal income taxation

1 **under the Internal Revenue Code, except for the corporation's**
2 **unrelated business income. However, this exemption does not**
3 **apply to a corporation exempt from federal income taxation**
4 **under Section 501(c)(14) of the Internal Revenue Code.**

5 **(c) This SECTION expires April 2, 2003."**

(Reference is to ESB 422 as reprinted April 1, 2003.)

Senator GARTON, Chairperson

Senator R. YOUNG, R.M.M.

Senator BORST